

## State of California

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### Legislative Change No.

**03-26**

Bill Number: SB 640

Author: Burton

Chapter Number: 03-657

Laws Affecting Franchise Tax Board: Public Contract Code Sections 10286 and 10286.1  
Revenue and Taxation Code Section 25113

Date Filed with the Secretary of the State: October 2, 2003

**SUBJECT:** State Agency Contracts/Expatriate Corporations/California Taxpayer and Shareholder Protection Act of 2003

*This act was double jointed with SB 1061 (Ch. 633, Stats. 2003). That act changed the form of a water's-edge election from a contract to a tax election by making Revenue and Taxation Code Section 25111 operative for taxable years beginning before January 1, 2003, and adding Section 25113 for taxable years beginning on or after January 1, 2003. The enactment of SB 1061 activated the double-jointing language that disregarded the section of SB 640 that would have amended Section 25111 and instead amended the newly added Section 25113.*

**Senate Bill 640 (Burton), as enacted on October 2, 2003, made the following changes to California law:**

Section 10286 is added to the Public Contract Code.

This act creates the California Taxpayer and Shareholder Protection Act of 2003.

Section 10286.1 is added to the Public Contract Code.

This act:

- Prohibits the state from entering into contracts with expatriate corporations or their subsidiaries, as defined,
- Allows the executive officer of a state department or agency (or a designee) to waive the prohibition if the contract is necessary to meet a "compelling public interest," as defined,
- Requires each vendor (not receiving a waiver) submitting a bid or contract proposal to self-certify that it is an eligible vendor with the contracting agency,
- Permits contracts with corporations that expatriated before January 1, 2004, if that corporation:
  - Provides shareholders with enumerated rights, and
  - Agrees to calculate state income tax liability using worldwide combined reporting, and
- Applies this bill's provisions to corporations that expatriated before January 1, 2004, for contracts entered into on or after April 1, 2004.

Section 25113 is added to the Revenue and Taxation Code.

This act adds a provision to Section 25113, as added by SB 1061 (Ch. 633, Stats. 2003) that requires the Franchise Tax Board to consent to the termination of a water's-edge election requested by all members of a water's-edge group, if the purpose of the request is to permit the state to contract with an expatriate corporation, or its subsidiary, pursuant to paragraph (2) of subdivision (b) of Section 10286 of the Public Contract Code.

Bureau Director

Jana Howard for Brian Putler

Date

11/4/03

It is the sole intent of the Legislature in enacting this provision to ensure that essential conforming changes are made, with respect to the termination of the water's-edge election of an expatriate corporation, to Section 25113 of the Revenue and Taxation Code as added by SB 1061 (Senate Revenue and Taxation Committee, Ch. 633, Stats. 2003).

This provision of the act is operative for taxable years beginning on or after January 1, 2004.

This act is effective and operative on January 1, 2004.

This act will not require any reports by the department to the Legislature.